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File No. Bills II /1951

Legal Deptt

B **BRANCH**

Subject:—

LD VOLUME

BILLS II

1951

File No. Bills II /1951

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L. D. VOLUME NO.

BILLS II.

1951.

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B.Press and Regis./1951

Legal Department.

B.Branch

Sub:- L.A. Bill No.IV of 1951.

A Bill to amend the Press and Registration of Books Act, 1861 in its application to the State of Bombay.

Bom. Act No.VI of 1951.

Office of the R.L.A.

The Curator of Libraries has suggested to Government that the Press and Registration of Books Act, 1867, be so amended as to impose an obligation upon a printer of a newspaper or magazine to supply copies to the Central and Regional libraries in the same manner for which provision has now been made in respect of the supply of books by Bombay Act No.LXI of 1948. E.D. & H.D. have assumed that all periodicals, i.e., weeklies, fortnightlies or monthlies, fall necessarily under the heading "newspaper". It is, however, necessary to point out that the definition of "book" as given in the Act is wide enough to include some of the periodicals, while the definition of "newspaper is elastic enough to include even monthlies, if they contain public news or comments on public news. See R.L.A's opinions No.2650 dated 23-10-1908 following I.L.R. 38 Calcutta 302, and No.979 dated 12-2-1935. It is provided in section 9 that nothing in the former part of that section, which imposes the obligation of delivering copies gratis, shall apply to any newspaper published in conformity with the rules laid down in section 5 of the Act A safe working test therefore is that whatever is published in conformity with section 5 after making a declaration may be treated as a newspaper for the purpose of supplying copies and would not be governed by section 9 but would fall under section 11A. Although by Bombay Act No.LXI of 1948 section 9 was so amended as to impose an obligation upon the printer to supply copies gratis to certain libraries, an amendment in that precise form in sect.11A would not be legally feasible in respect of newspapers for two principal reasons. The first is that under the scheme of the Act, special provision had all along been made for the preservation of books, and it was not expected that newspapers should be preserved for library purposes. Secondly, a free supply of newspapers to public libraries cannot now be demanded without some compensation.

Article....

Article 31(2) of the Constitution provides that no movable property shall be taken possession of or acquired for public purposes under any law authorising the taking of such possession or such acquisition, unless the law provides for compensation for the property taken possession of or acquired and either fixes the amount of compensation or specifies the principles on which and the manner in which the compensation is to be determined and given. Existing laws are saved under clause (5)(a) of that Article.

2. Although an amendment of section 11A requiring printers to supply copies of newspapers gratis, to specified libraries may not be legally feasible, it would be competent to amend the Act demanding more copies for purposes of Press regulation At present the O.T. gets both the copies, one of which necessarily gets mutilated in the process of scrutiny and has to be thrown away. The other is very frequently submitted to Government for examination or for information and is not also available for record. It has often been found necessary for purposes of regulation to keep a note of the policy of a newspaper, and that cannot be done without preserving a record of the newspaper. Secondly, even for the administrati purpose of reference, a record of newspapers, particularly of leading newspapers, is often found necessary. The O.T.'s office is not properly equipped for maintaining such record. The Central Library which otherwise gets all the copy right books is the proper repository for such newspapers. An amend ment of section 11 by increasing the number of copies can, therefore, be made solely in the interest of Press regulation so that no question of acquiring or taking possession of property for public purpose can arise. Any such amendment may not, therefore, demand more copies than are absolutely necessary for purposes of Press regulation. Govt. already gets two copies, and it would be reasonable to say that one more copy is needed for the purpose in view. Section 11A ma therefore, be amended as shown in the draft Bill, and it may be explained that this amendment is made because Government

finds...

finds that two copies are not sufficient for purposes examination, reference and record. After the section is amended, the O.T. may be given a direction that the record should be maintained at the Central Library where the record copy right books is also maintained.

Sd/- P.M. Lad.
22.8

Remembrancer of Legal Affairs.

Secy.H.D.

Secy. E.D.

Legal Department.

A requisite draft Bill is sent herewith.

2. The subject-matter of the Bill falls under entry 39 in List III in the Seventh Schedule to the Constitution of India. The provisions of clause 2 of the Bill being repugnant to the provisions of section 11A of the Press and Registration of Books Act, 1867, which is an existing law relating to entry 39 in the concurrent List it will be necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India.

3. The Bill does not require any sanction or recommendation of the Governer under the said consideration.

4. Before the legislation is undertaken the administrative approval of the Central Government will be required under executive instructions issued by that Government as the Bill relates to an entry in the Concurrent List.

5. The Statement of Objects and Reasons at page 33 has been slightly amended.

Sd/- P.M. Lad,
4.12.

U.R. to H.D. No.17156, dated the 5th December 1950.

RMS.
23.6.

No.4111
Legal Department,
Bombay Castle (Bombay No.1), 13th March 1951.

From

Shri J.R. Dhurandhar,
Secretary to the Government of Bombay.

To

The Secretary to the Governer of Bombay.

Subject:- The Press and Registration of Books (Bombay Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governer the authentic copy of the Press and Registration of Books (Bombay Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 13th and 26th February 1951 respective.

2. The subject matter of the Bill falls under entry 39 in the List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of section 11A of the Press and Registration of Books Act, 1867, which is an existing law relating to entry 39 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constituion.

3. I also forward herewith six copies of the items

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	:	Nos. 1 and
2. Bill as read for the third time and passed by the Bombay Legislative Council.	:	2 and
3. Extracts from the proceedings of the Bombay Legislative Assembly dated the 13th February 1951 and of the Bombay Legislative Council dated the 26th February 1951.	:	x two copies of item

No.....

No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Sd/- J.R. Dhurandhar.
12.3.

Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Home Department.

RMS.
25.6.

No.GS. 734. 7/

From

The Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1.

Government House,

Bombay 6, March 19, 1951.

Subject:- The Press and Registration of Books (Bombay Amendment) Bill, 1951.

Sir,

With reference to the Press and Registration of Books (Bombay Amendment) Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on February 13 and 26, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of ~~th~~ section 11A of the Press and Registration of Books Act, 1867, which is an existing law relating to entry 39 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India. His Excellency the Governor is accordingly pleased, under Article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.M. Nadkarni.

Secretary to the Governor of Bombay.

No.C.S.-735
Office of the Secretary to the Governor,
Government House, Bombay 6,
March 19, 1951.

Copy forwarded with compliments for information to:-

(1) The Secretary to Government, Legal Department, with reference to his letter No.4111, dated March 13, 1951;

(2) The Secretary to Government, Home Department, with reference to his endorsement No.4590/6-Poll., dated March 15, 1951.

Sd/- L.M. Nadkarni,

Secretary to the Governor.

No.G.S.-956

From

The Secretary to the Governer of Bombay.

To

The Secretary to Government,
Legal Department.

Government House,

Bombay, April 11, 1951.

Subject:- The Press and Registration of Books (Bombay Amendment) Bill, 1951.

Sir,

With reference to the correspondence ending with this office endorsement No.G.S.-735, dated March 19, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Press and Registration of Books (Bombay Amendment) Bill, 1951, on April 5, 1951.

Yours faithfully,

Sd/-

for Secretary to the Governer.

RMS.
25.6.

Acts.
Publication of the Press and Registration of Books (Bombay Amendment) Act, 1951.

Government of Bombay,
Legal Department.
Resolution No.6033.
Bombay Castle, 14th April 1951.

Letter to the Secretary to the Governor, No.4111, dated the 13th March 1951.

Letter from the Secretary to the Governor, No.G.S.956, dated the 11th April 1951.

"With reference to the correspondence ending with this office endorsement No.G.S.735, dated March 19, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Press and Registration of Books (Bombay Amendment) Bill, 1951, on April 5, 1951."

RESOLUTION:- The law should be published as Bombay Act No.VI of 1951, in the Bombay Government Gazette dated the 14th April 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd/- K.J. Pathare,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and ten copies for the use of the Home Department),
The Home Department,)
* The Oriental Translator to Government,) with a copy
The Bombay Legislature Department,) of the Act.
The Director of Publicity, Bombay,)
The Enquiry Officer for the Secretariat, Bombay.)

*With four extra copies of the Act.

RMS.
25.6.

No.G.S.-995.

From

The Secretary to the Governor of Bombay.

To.

The Secretary to Government,
Legal Department.

Government House,
Bombay, April 13, 1951.

Subject: The Press and Registration of Books (Bombay Amendment) Bill, 1951.

Sir,

In continuation of my letter No.G.S.-956, dated April 11, 1951, I am directed to forward herewith the authentic copy of the Press and Registration of Books (Bombay Amendment) Bill, 1951, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

RMS.
25.6.

B. Housing Board, 1951.

Legal Department - B Branch.

Subject:- L.A. Bill II of 1951.

A Bill to amend the Bombay Housing Board, Act, 1948.

BOMBAY ACT NO. XI OF 1951.

R.I. No.4-Confl.
dt. 16-1-51.

Legal Department.

It is true that the Cabinet has approved the principle of the Ordinance, but has decided that the provisions thereof should be embodied in a bill to be placed before the Legislature. Although in the Ordinance it was proposed to amend the Bombay Rents, Hotel and Lodging House Rates Control Act, it would be more suitable to insert the provisions in a bill to amend the Bombay Housing Board Act, 1948, itself. The real point in the case is that a doubt has arisen regarding the interpretation to be put on section 3(3) of the Act. That sub-section provides that the Board is a local authority for the purposes of the Act. The function of the Housing Board is not only to construct buildings, but also to manage them, to let them out and to recover rent. It can, therefore, be argued with some degree of force that in letting out the tenements and in recovering rent thereof, it acts as a local authority. The legislation is however necessary to remove any doubt on that point and to enable the Board to avail itself of the exemption from the Rent Act. A draft bill is, therefore, put up herewith. It is provided in the Bill that the management and use of lands and buildings vesting in the Board shall be one of the purposes of the Act as a local authority. Such a provision will not be considered inequitable or unjust. The tenants against whom the suits are filed occupied the tenements when the tenements vested in Government. Government is not bound by the provisions of the Rent Act. The tenants were permitted to occupy the premises on the distinct understanding that the rents were liable to enhancement. It is, therefore, inequitable on the part of the tenants to claim that the Rent Act applies and the Housing Board which has stepped in the place of Government is bound by the Rent Act.

Sd/- J.R. Dhurandhar, 18/1
Add. Secretary to Govt.

RMS/25.6. U.R. to L. & H.D., No.67-Confl., dated the 18th Jan. 1951.

No.4212.
Legal Department,
Bombay Castle (Bombay No.1),14th March 1951.

From
Shri J.R. Dhurandhar,
Secretary to the Government of Bombay.

To
The Secretary to the Governor of Bombay.

Subject:- The Bombay Housing Board (Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Housing Board (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 13th and 26th February 1951 respectively.

2. The subject matter of the Bill falls under entries 5 and 18 in List II and entries 6 and 7 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which are the existing laws relating to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

3. I also forward herewith six copies of the items Nos. 1 and 2 and two copies of item No.3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	and two copies of item No.3 of the papers noted in
2. Bill as read for the third time and passed by the Bombay Legislative Council.	
3. Extracts from the proceedings of the Bombay Legislative Assembly dated the 13th February 1951 and of the Bombay Legislative Council dated the 26th February 1951.	

Yours faithfully,

Sd/- J.R. Dhurandhar. 14.3.
Secretary to Government.

Through:
The Secretary to the Government of Bombay,
Labour and Housing Department.

RMS.
25.6.

No.G.S.737

From

Shri L.M. Nadkarni, I.C.S.
Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1.

Subject:- The Bombay Housing Board (Amendment) Bill, 1951.

Government House,
Bombay 6, March 19, 1951.

Sir,

With reference to the Bombay Housing Board (Amendment Bill, 1951, which was passed by the Bombay ~~Legislative~~ Legislative Assembly and the Bombay Legislative Council on February 13 and 26, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which are existing laws relating to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Article 254(2) of the Constitution of India. His Excellency the Governor has accordingly been pleased, under Article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.M. Nadkarni.

Secretary to the Governor of Bombay.

. . . . .

No.G.S.=738
Office of the Secretary to the Governor,
Government House, Bombay 6,
March 19, 1951.

Copy forwarded with compliments for information to:-

(1) The Secretary to Government, Legal Department, with reference to his letter No.4212, dated March 14, 1951;

(2) The Secretary to Government, Labour and Housing Department, with reference to his endorsement No. 383/48/10838-F, dated March 15, 1951.

Sd/- L.M. Nadkarni

Secretary to the Governor.

No.G.S. 1051 231

From

The Secretary to the Governor of Bombay.

To

The Secretary to the Government of Bombay,
Legal Department.

Government House,

Bombay, April 19, 1951.

Subject:- The Bombay Housing Board (Amendment) Bill, 1951.

Sir,

With reference to the correspondence resting with your letter No.5404, dated April 4, 1951, I am to state that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Housing Board (Amendment) Bill, 1951, on April 17, 1951.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

RMS.
26.6.

No.G.S.-1115

From

The Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department.

Government House,

Bombay, April 24, 1951.

Subject: The Bombay Housing Board (Amendment) Bill, 1951.

Sir,

In continuation of my letter No.G.S.-1051, dated April 19, 1951, I am directed to forward herewith the authentic copy of the Bombay Housing Board (Amendment)Bill, 1951, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

RMS.
26.6.

Acts.
Publication of the
Bombay Housing Board (Amendment) Act,1951.

Government of Bombay.
Legal Department.
Resolution No.6417.
Bombay Castle, 21st April 1951.

Letter to the Secretary to the Governor, No.4212, dated the 14th March 1951.

Letter from the Secretary to the Governor, No.G.S.1051, dated the 19th April 1951.

RESOLUTION:- The law should be published as Bombay Act No.XI of 1951, in the Bombay Government Gazette dated the 21st April 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Labour and Housing Department.

By order of the Governor of Bombay,

Sd/- S.L. Chaudhari.

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies for the use of the Labour and Housing Department),
The Labour and Housing Department,)
* The Oriental Translator to Government,) with a copy
The Bombay Legislature Department,) of the Act.
The Director of Publicity, Bombay,)
The Enquiry Officer for the Secretariat,)
Bombay.)

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* With four extra copies of the Act.

RMS.
26.6.